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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

ZAHRA KARAMY,

Plaintiff and Respondent,

v.

KURANG AHANKOOB,

Defendant and Appellant.

B256795

(Los Angeles County  
Super. Ct. No. LD036542)

APPEAL from an order of the Superior Court of Los Angeles County, Lloyd Loomis, Judge. Affirmed.

Zahra Karamy in pro. per. for Plaintiff and Respondent.

Lioness Law Group and Farah Faramarzi for Defendant and Appellant.

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Kurang Ahankoob (husband) appeals a postjudgment order directing him to remove a \$300,000 lien from real property owned by Zahra Karamy (wife) and awarding her \$3,000 in attorney fees.<sup>1</sup>

We reject husband's contention the trial court lacked jurisdiction to order him to remove the lien and affirm the order in full.

### **FACTUAL AND PROCEDURAL BACKGROUND**

#### *1. Earlier proceedings.*

On December 20, 2001, wife filed a petition for dissolution of marriage.

During the pendency of the dissolution proceeding, on or about October 3, 2003, husband executed a grant deed conveying to wife his interest in the subject real property, the family residence located at 5015 Ambridge Drive in Agoura Hills (Ambridge).

On October 9, 2003, notwithstanding the fact that title to Ambridge was in wife's name, husband recorded a \$300,000 deed of trust on Ambridge for the benefit of his business, West Valley Cleaners. Husband also encumbered Ambridge with an \$80,000 deed of trust in favor of husband's brother.

On October 29, 2010, the trial court entered a judgment of dissolution on reserved issues. The judgment awarded Ambridge to wife and confirmed it as her separate property. The trial court assigned "any liability on [husband's] brother's \$100,000 lien to [husband]."<sup>2</sup> However, the judgment did not address the \$300,000 lien on the property in favor of West Valley Cleaners.

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<sup>1</sup> As is customary in family law proceedings, we refer to the parties as husband and wife, although they are no longer married.

<sup>2</sup> Presumably, the discrepancy between the recorded \$80,000 lien to brother and the \$100,000 lien amount in the judgment is due to accrued interest. In any event, it is the same lien.

2. *The instant proceedings.*

a. *Wife's moving papers.*

On or about March 17, 2014, wife filed a motion to modify the judgment, seeking an order directing husband to reconvey or remove both the \$300,000 deed of trust and the \$80,000 deed of trust, as well as an award of reasonable attorney fees.

With respect to the \$300,000 deed of trust, wife contended the trial court retained the authority to allocate a community asset or liability not previously mentioned in the judgment. Wife sought to eliminate the \$300,000 lien on the ground that husband admitted in his trial testimony “that his \$300,000 claim for equalization was bogus and that the lien he placed on the marital property was ‘illegal.’ ”

In support, wife appended an excerpt from the trial transcript wherein husband stated: “I am claiming she has to pay \$300,000 because she took the money. And this document is to prove that she took the money. [¶] . . . [¶] \$300,000. And that’s why I put that lien on the property. *I know it was illegal.* I had a purpose for that one so she cannot transfer the house to her daughter. That’s why I put that 300. But she owe me that \$300,000.” (Italics added.)

As for the \$80,000 deed of trust to husband’s brother, wife argued that although the judgment assigned liability on the lien to husband, the assignment of the obligation to husband did not remove the lien from Ambridge, and she continued to be burdened with the obligation in the event she were to sell the home.

b. *Husband's opposition.*

In opposition, husband contended the trial court lacked jurisdiction to grant the requested relief because the trial court’s continuing jurisdiction to rule on omitted or unadjudicated assets and liabilities extends only to *community* assets and liabilities, and the \$300,000 lien was wife’s *separate* property debt rather than a community liability.

Husband further argued that because the judgment of dissolution included an omnibus provision that “[e]ach party is to receive exactly what is provided for in this

judgment, no more and no less,” the trial court could not make an order with respect to omitted or unadjudicated assets and liabilities.

Husband also denied that he testified at trial that the \$80,000 lien in favor of his brother was illegal.<sup>3</sup> In addition, husband objected to the partial transcript attached to wife’s moving papers.

*c. Trial court’s ruling.*

On April 18, 2014, the matter came on for hearing and was taken under submission. Thereafter, the trial court ruled as follows:

“In this matter there are two liens at issue. The[s]e liens were not adjudicated in the proceedings or in the final judgment. Under these circumstances, the Court has jurisdiction to make orders regarding these liens. [¶] The \$300,000 lien. [¶] [Wife] has the right to ownership of [Ambridge], free of the lien improperly encumbering the property which was awarded to [wife] in the Judgment of Dissolution filed October 29, 2010. [¶] [Husband] acknowledged in his testimony at trial that the deed of trust purporting to secure his right to \$300,000 was ‘bogus’ and ‘illegal,’ and that he released this lien, as well as the lien in favor of his brother.

“[Husband] claims that when the court awarded [wife] the [Ambridge] property, that the court intentionally left the \$300,000 lien in place. There is no evidence to support this contention, especially in light of the fact that [husband], in open court, during trial, testified that the lien had been [r]eleased. [Wife’s] action to remove the \$300,000 lien is simply an action to enforce the judgment and to obtain the property that she was awarded at trial.

“Therefore, [husband] is ordered to remove the lien by reconveying the deed of trust purporting to secure the \$300,000 within 10 days from the date of this order, or the court will order the Clerk of the Court to execute the reconveyance.”

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<sup>3</sup> On appeal, husband’s argument in this regard is somewhat different. He now contends he did not testify *the \$300,000 West Valley lien* was illegal.

As for the \$80,000 lien, the trial court denied relief to wife on the ground that the court lacked personal jurisdiction over husband's brother; the trial court specified that its ruling was without prejudice to any action taken by wife against husband's brother.

The trial court denied husband's request for attorney fees, granted wife's request for fees and awarded her \$3,000 in fees.

Husband filed a timely notice of appeal from the May 20, 2014 order.<sup>4</sup>

### **CONTENTIONS**

Husband contends that the trial court erred in ordering him to reconvey the \$300,000 trust deed to wife because (1) the trial court lacked jurisdiction to adjudicate the omitted separate liability item; (2) he did not testify at trial that the \$300,000 lien was illegal; (3) the judgment did not award wife the residence free of the lien; and (4) the judgment included an omnibus provision adjudicating all of the property and therefore there was no omitted property to be adjudicated pursuant to Family Code section 2556.<sup>5</sup> Husband also contends that he, not wife, should have been awarded attorney fees.

### **DISCUSSION**

1. *No merit to husband's jurisdictional argument; section 2556 vests trial court with jurisdiction to adjudicate omitted assets and liabilities.*

Section 2556 provides: "In a proceeding for dissolution of marriage, for nullity of marriage, or for legal separation of the parties, the court has continuing jurisdiction to award community estate assets or community estate liabilities to the parties that have not been previously adjudicated by a judgment in the proceeding. A party may file a postjudgment motion or order to show cause in the proceeding in order to obtain adjudication of any community estate asset or liability omitted or not adjudicated by the judgment. In these cases, the court shall equally divide the omitted or unadjudicated

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<sup>4</sup> The May 20, 2014 order is appealable as a postjudgment order. (Code Civ. Proc., § 904.1, subd. (a)(2).)

<sup>5</sup> All further statutory references are to the Family Code, unless otherwise specified.

community estate asset or liability, unless the court finds upon good cause shown that the interests of justice require an unequal division of the asset or liability.”

Husband contends section 2556 is inapplicable because the \$300,000 trust deed was wife’s separate liability. The argument is unavailing. The record reflects that Ambridge was the family residence and that it ultimately was “award[ed] . . . to [wife] and confirm[ed] as her separate property” in the 2010 judgment on reserved issues. In ruling on this disputed asset, the trial court specifically denied husband’s request that Ambridge be awarded to him.

As indicated, the \$300,000 lien was created in October 2003, during the marriage and while the dissolution proceeding was pending. At that time, husband encumbered the family residence with the \$300,000 trust deed to West Valley Cleaners. While the 2010 judgment awarded Ambridge to wife, the judgment did not expressly address the \$300,000 lien. This omission apparently stemmed from the fact that, as the trial court found, husband “in open court, during trial, testified that the lien had been [r]eleased.” Given husband’s testimony at trial, it was unnecessary for the judgment to adjudicate the \$300,000 lien. However, once wife’s postjudgment motion called the issue to the trial court’s attention, the trial court properly exercised its jurisdiction under section 2556 to order husband to release the \$300,000 lien.

*2. No merit to husband’s contention that he did not testify at trial that the \$300,000 lien was illegal.*

Although husband denies having testified at the dissolution trial that the \$300,000 lien was illegal, the record belies his contention. As set forth above, husband testified at trial as follows: “I am claiming she has to pay \$300,000 because she took the money. And this document is to prove that she took the money. [¶] . . . [¶] \$300,000. And that’s why I put that lien on the property. *I know it was illegal.* I had a purpose for that one so she cannot transfer the house to her daughter. That’s why I put that 300. But she owe me that \$300,000.” (Italics added.)

Husband's argument on appeal that he should not be bound by his trial testimony because he was in propria persona during the dissolution proceeding is unavailing. It is well settled that a self-represented litigant is entitled to the same, but no greater, consideration than other litigants and attorneys. (*Harding v. Collazo* (1986) 177 Cal.App.3d 1044, 1056; *Burnete v. La Casa Dana Apartments* (2007) 148 Cal.App.4th 1262, 1267.)

Husband also contends that the partial transcript presented by wife in support of her motion to modify the judgment amounted to a violation of his right to due process. However, the transcript speaks for itself. If husband believed the partial transcript distorted his testimony, he was free to provide a more extensive transcript as part of his opposition papers below. There was no due process violation. (See *Alviso v. Sonoma County Sheriff's Dept.* (2010) 186 Cal.App.4th 198, 209 [fundamental requirements of procedural due process are notice and an opportunity to be heard].)

3. *No merit to husband's contention the trial court erroneously determined the judgment awarded wife the residence free of the lien.*

Husband argues the trial court erred by concluding the judgment awarded Ambridge to wife free of the lien, and that in removing the lien it was doing nothing more than enforcing the judgment.

Husband misconstrues the May 20, 2014 order. In the order, the trial court stated: "In this matter there are two liens at issue. *These liens were not adjudicated in the proceedings or in the final judgment.* Under these circumstances, the Court has jurisdiction to make orders regarding these liens." (Italics added.)

These circumstances come squarely within section 2556, set forth *ante*. We conclude the trial court properly determined it was authorized to adjudicate the \$300,000 lien, as to which the judgment was silent.

4. *No merit to husband's argument the \$300,000 is deemed to have been adjudicated in the judgment.*

Husband contends community property may be deemed adjudicated by the judgment and not omitted for purposes of section 2556, even though not specifically identified in the judgment. In support, he cites a family law treatise which states: “[Community property] assets may be deemed ‘adjudicated’ by the judgment (not ‘omitted’ for § 2556 purposes) even though not specifically identified in the judgment. For instance, *this may occur pursuant to an ‘omnibus provision’ in a MSA or stipulated judgment that awards a party ‘all property standing in [that party’s] name.’ Such language is risky because it is likely to be viewed as preempting § 2556 . . . .* (Hogoboom et al., Cal. Practice Guide: Family Law (The Rutter Group 2014) § 8:1521.1.) (Certain italics added.)

Leaving aside the fact the treatise is not binding on this court, the provision discussed therein, i.e., language in a judgment awarding a party “all property standing in that party’s name,” is different from the recital in the instant judgment, to wit, “Each party is to receive exactly what is provided for in this Judgment, no more and no less.” Said provision does not, by its terms, foreclose the possibility of the judgment having left an item unadjudicated.

We conclude the language of the judgment did not preclude wife from seeking to modify the judgment pursuant to section 2556 with respect to the unadjudicated \$300,000 lien on the family residence, which husband conceded at trial was an “illegal” lien.

5. *Attorney fees.*

Husband contends the trial court should have awarded attorney fees to him, rather than to wife.

In view of our resolution of the merits of the appeal, there is no basis to disturb the award of attorney fees to wife.



**DISPOSITION**

The May 20, 2014 order is affirmed. Wife shall recover her costs on appeal.

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EDMON, P. J.

We concur:

KITCHING, J.

ALDRICH, J.